

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

DDK HOTELS, LLC, DDK/WE  
HOSPITALITY PARTNERS, LLC, and  
DDK/WE HOTELS MANAGEMENT, LLC,

Plaintiffs,

v.

WILLIAMS-SONOMA, INC. and  
WILLIAMS-SONOMA STORES, INC.,

Defendants.

Case No. 1:19-cv-226-ILG-CLP

WILLIAMS-SONOMA STORES, INC.,

Counterclaimant,

v.

DDK/WE HOSPITALITY PARTNERS, LLC,

Counterclaim-Defendant.

**MEMORANDUM IN SUPPORT OF UNOPPOSED  
MOTION FOR LEAVE TO FILE UNDER SEAL**

Defendant Williams-Sonoma Inc. (“WSI”) and defendant/counterclaimant Williams-Sonoma Stores, Inc. (collectively, “Defendants”), by and through their undersigned counsel, respectfully submit this memorandum in support of their motion for an order permitting them to file under seal (a) their letter opposition (the “Opposition”) to Plaintiffs’ July 7, 2021 letter motion [ECF. No. 85-1], (b) transcript excerpts of the December 12, 2019 deposition of Kim Phoebus in this action (Exhibit B to the Opposition), (c) transcript excerpts of the January 9, 2020 deposition of David Bowd in this action (Exhibit A to the Opposition), and (d) transcript excerpts of the May 14, 2020 deposition of Peter Fowler in this action (Exhibit J to the Opposition).

In support of their Motion, Defendants state as follows:

1. Pursuant to Section VIII of the Stipulated Protective Order [ECF No. 36] in the above-captioned matter, which was So Ordered by the Court on August 6, 2019, the parties are required to file any testimony during a deposition designated as “Confidential” under seal with an accompanying motion for leave to e-file those documents under seal.

2. In connection with their Opposition, Defendants intend to cite to and rely on certain excerpts of the December 12, 2019 deposition of Kim Phoebus in this action, transcript excerpts of the January 9, 2020 deposition of David Bowd in this action, and transcript excerpts of the May 14, 2020 deposition of Peter Fowler in this action (which are Exhibits A, B, and J to Defendants’ Opposition). Pursuant to the Protective Order, Defendants understand that one or more of the parties may have previously designated those transcript excerpts as “Confidential” as containing information that is commercially sensitive to Plaintiffs’ and Defendants’ respective businesses. To comply with such designations pursuant to the protective order, Defendants hereby seek to file those limited transcript excerpts under seal. Further, Defendants’ Opposition

arguable conveys the substance of those transcript excerpts, and therefore, out of caution, Defendants believe should be treated as confidential pursuant to the Protective Order.

3. Generally, the “interest in protecting confidential business information outweighs the qualified First Amendment presumption of public access.” *Standard Inv. Chartered, Inc. v. Fin. Indus.*, 347 Fed. App’x. 615, 616-17 (2d Cir. 2009); *see also Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-24 (2d Cir. 2006) (“Documents may be sealed if specific, on the record findings are made demonstrating that closure is essential to preserve higher values and is narrowly tailored to serve that interest.”) The Court should therefore follow the sealing procedures implicated under the Protective Order.

4. By email dated July 14, 2021, counsel for Plaintiffs stated that Plaintiffs do not oppose this Motion.

5. Accordingly, Defendants respectfully request that the Court enter an Order permitting Defendants to file under seal (a) their Opposition, (b) transcript excerpts of the December 12, 2019 deposition of Kim Phoebus in this action (Exhibit B to the Opposition), (c) transcript excerpts of the January 9, 2020 deposition of David Bowd in this action (Exhibit A to the Opposition), and (d) transcript excerpts of the May 14, 2020 deposition of Peter Fowler in this action (Exhibit J to the Opposition), and for such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
July 14, 2021

Respectfully submitted,

**SHEPPARD, MULLIN, RICHTER & HAMPTON LLP**

By: /s/ Kari M. Rollins  
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